

HEALTH AND SENIOR SERVICES

DIVISION OF HEALTH CARE QUALITY AND OVERSIGHT

HOSPITAL LICENSING STANDARDS

PROMPT NOTIFICATION OF PATIENT DEATH

Proposed Amendment: N.J.A.C. 8:43G-5.2(a)3

Authorized By:

Fred M. Jacobs, M.D., J.D.

Commissioner, Department of Health and Senior  
Services, (with the approval of the Health Care  
Administration Board)

Authority:

N.J.S.A. 26:2H-1 *et seq.*; N.J.S.A. 26:2H-5e2.

Calendar Reference: See Summary below for explanation of exception to  
calendar requirement.

Proposal Number: PRN 2005-

Submit written comments by January 6, 2005, to:

John A. Calabria

Director

Certificate of Need and Acute Care Licensure Program

New Jersey Department of Health and Senior Services

P.O. Box 360, Rm 403

Trenton, NJ 08625-0360

The agency proposal follows:

### Summary

Pursuant to P.L. 2004, c.90, enacted July 9, 2004 and codified at N.J.S.A. 26:2H-5e, the Commissioner of Health and Senior Services is required to adopt rules effectuating the statutory requirement that general and special hospitals, nursing homes and assisted living residences licensed by the Department of Health and Senior Services (Department) adopt and maintain written policies and procedures to delineate the responsibilities of facility staff for prompt notification of family members, guardians or contact person designated by the patient on admission about the death of a patient. The Department, in furtherance of this mandate, is proposing amendments to the Hospital Licensing Standards at N.J.A.C. 8:43G-5.2(a)3. A separate proposal will be made to licensure standards applying to nursing homes and assisted living residences.

The proposed amendments to N.J.A.C. 8:43G-5.2(a)3 would apply to general and special hospitals.

The Department is proposing that N.J.A.C. 8:43G-5.2(a)3, which addresses administrative and hospital-wide policies and procedures, be amended to add language at N.J.A.C. 8:43G-5.2(a)3 that would require hospitals to promptly notify a family member, guardian or contact person designated by the patient of a patient's death. Additionally, the hospital would be required to delineate the responsibilities of hospital staff for prompt

notification of a patient's death to a family member, guardian or other designated person in the hospital's manual of policies and procedures. The hospital would further be required to maintain confirmation and written documentation of that notification.

The Department is proposing at N.J.A.C. 8:43G-5.2(a)3ii to define "prompt" as meaning as soon as possible, but not later than 60 minutes after the patient's death. Where a timely notification attempt has not been successful, an additional attempt would be required in each successive 60-minute period until successful notification is made.

The Department is further proposing at N.J.A.C. 8:43G-5.2(a)3iii that the written documentation required by the law would include documentation in the medical record of each attempt at notification, as well as who made the contact, when, how, and who successful notice was given to.

The Department has provided a 60-day comment period for this rulemaking. Therefore, pursuant to N.J.A.C. 1:30-3.3(a)5 and (b), this rulemaking is exempt from the calendar listing requirement provided at N.J.A.C. 1:30-5.1(b)7.

#### Social Impact

The proposed licensure amendments are being promulgated to implement the requirements of N.J.S.A. 26:2H-5e that require general or special hospital to adopt and maintain written policies and procedures to delineate the responsibility of its staff for the prompt notification of a family member, guardian or contact person designated by the patient about a

patient's death and that such notification be confirmed with written documentation.

The proposed amendments would have a positive social impact on family members of patients who die in general or special hospitals by assuring they are notified of the death as promptly as possible. If no family members are present when the death occurs, it can be very distressing for them to learn of the death long after the fact. The proposed amendment would also reduce confusion as to whether notification actually took place and who was notified. The current rule requires each hospital to delineate the responsibilities of the staff in contacting the patient's family in the event of death, elopement, or a serious change in condition. The proposed amendments would add to that requirement that, in the case of death, the notice be prompt and that the facility maintain a written record of that notice. The proposed amendments would also require that the facilities delineate in their policies and procedures the responsibilities of their staff with regard to the notice and record keeping requirements.

#### Economic Impact

The proposed amendments are expected to have no economic impact on the general public or patients, because the promulgation of these rules would not require any additional public funding. The proposed amendments would have little adverse economic impact on hospitals because, although the current rules do not explicitly require notification and documentation, N.J.A.C. 8:43G-25.1 currently does require policies and

procedures for post mortem services which require, among other things, the identification of the body, safeguarding personal effects of the deceased and release of personal effects to the appropriate individual, and release of the body to the county morgue or funeral director. The requirements of the proposed amendments do not add a significantly greater burden to what currently exists, but they do state with greater precision how quickly notice is to occur and how it is to be documented.

#### Federal Standards Statement

The proposed amendments to N.J.A.C. 8:43G are not subject to any Federal standards or requirements. Therefore, a Federal Standards Analysis is not required.

#### Jobs Impact

No jobs are expected to be created or abolished due to the adoption of the proposed amendments. The Department does not anticipate that the proposed amendments would result in the creation or loss of any jobs.

#### Agriculture Industry Impact

The Department does not expect the proposed amendments would have any impact on the agriculture industry.

### Regulatory Flexibility Analysis

The hospitals impacted by these proposed amendments are not considered small businesses, as the term is defined in N.J.S.A. 52:14B-16 *et seq* because none have fewer than 100 employees. Thus, a regulatory flexibility analysis is not required.

### Smart Growth Impact Statement

The Department does not anticipate that the proposed amendments would impact the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed amendments follows (additions indicated in boldface thus; deletions indicated in brackets [thus]):

#### 8:43G-5.2 Administrative and hospital-wide policies and procedures

(a) The hospital shall have written policies, procedures, and bylaws that are reviewed at least once every three years, revised more frequently as needed, and implemented. They shall include at least:

1.-2. (No change)

3. Delineation of the responsibilities of the medical staff, nursing, and other staff in contacting the patient's family in the event of death, elopement, or a serious change in condition;

(i) The facility shall promptly notify a family member, guardian or contact person designated by the patient on admission about a patient's death. The facility shall maintain confirmation and written documentation of that notification. The facility shall adopt and maintain in its manual of policies and procedures a delineation of the responsibilities of the facility's staff in making such prompt notification regarding the death of a patient.

(ii) As used in this section, "promptly" means as soon as possible but not later than 60 minutes after the patient's death. If a first attempt to provide notification is made in a timely fashion but is not successful, a subsequent attempt must be made within each successive 60-minute period until notification is successfully made.

(iii) Written documentation shall be made in the patient's medical record of each attempt at notification, including who made the attempt, when, how notification was made, and who the notification, when successful, was given to.

4.-12. (No change)

(b) – (m) (No change)

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